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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/595,268

07/31/2006

Brian E. Bochmer

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1771

MAIL DATE

DELIVERY MODE

06/29/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                       |                                       |  |
|------------------------------|---------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/595,268  | <b>Applicant(s)</b><br>BOEHMER ET AL. |  |
|                              | <b>Examiner</b><br>Lynda M. Salvatore | <b>Art Unit</b><br>1771               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,19-45,48 is/are rejected.
- 7) ☒ Claim(s) 2,10-18,46,47 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,3-5, 7, 19-22, 27-29,31,34-45,48 rejected under 35 U.S.C. 103(a) as being unpatentable over Manning, US 5,246,772.

The patent issued to Manning teaches a composite web comprising two outer cellulose layers and one bicomponent layer positioned between the outer layers (abstract, column 2, 5-50, column 4, 35-40). Said bicomponent layer comprises a core of cellulose fiber and a lower melting sheath component (column 7, 5-20). Said bicomponent layer may also comprise wood pulp (column 7, 30-35). With regard to the binder limitations, Manning teaches that each outer layer comprises a latex binder (column 2, 45-50). Manning teaches employing from 15-25 wt. % of binder (column 6, 40-47).

With regard to the claimed basis weights, percent amount of fiber, and binder, Manning fails to teach said ranges as set forth, however, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art to optimize the amounts of each of these parameters to achieve a desirable balance of properties. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

With regard to the limitation of providing a carbon dioxide gas generating composition, it is the position of the Examiner that although Manning fails to teach such a property, said property is inherent to the cellulose comprising bicomponent layer of Manning. Support for said presumption is found in the use like material such as cellulose, which would inherently provide for the claimed carbon dioxide gas generating gas properties.

3. Claim 6, 8,9,25,26,30,32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manning, US 5,246,772 as applied to claim 1 above and further in view of Ouederni et al., US 2003/0089443.

Manning fails to teach the claimed bicomponent binder fiber in combination with latex binder, however, such fibers and binder combinations are commonly known in the art. For example, the published patent application issued to Ouederni et al., teach a non-woven web comprising bicomponent fibers with latex binder (abstract and section 0020). Ouederni et al., teach that such a binder combination is adequate to bind the web into a unitary structure (section 0020). Therefore, motivated by the desire to provide a unitary non-woven structure, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the non-woven layers of Manning with a combination of latex binder and bicomponent binder fibers as taught by Ouederni et al.

With regard to the claimed percent amount of binder, the combination of prior art fails to teach said ranges as set forth, however, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art to optimize the amounts of each of binder to achieve a unitary structure. It has been held that where the general conditions of a claim are disclosed in

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the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

***Allowable Subject Matter***

4. Claims 2, 10-18, 46,47 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Specifically, the combination of cited prior art fails to set forth the claimed carbon dioxide gas generating composition set forth. In addition, the combination of prior art fails to teach the claimed carrier as set forth in claim 2. An art search did not produce any substantial art for which to base a rejection and presently no motivation exists to combine references to form an obviousness type rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

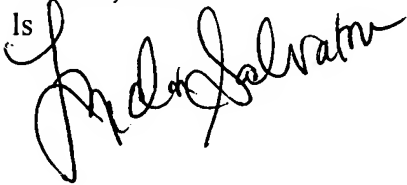
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 24, 2007

ls

A handwritten signature in black ink, appearing to read "J. A. Salvato", written over the "ls" text.